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# AMERICA'S HEALTH IS DETERIORATING AS THE ARTS INDUSTRY STRUGGLES TO SURVIVE THE COVID-19 PANDEMIC

*Renee Mariotti\**

## I. INTRODUCTION

Art plays an essential role in the health of Americans. As anyone who has ever felt goosebumps while listening to an incredible piece of music or been moved to tears by a touching film understands, art has a physiological impact on the human body. Not only is art impactful on the life of the artist creating it, but art is also impactful on the lives of those experiencing it. Creating art gives the artist a chance to express his or her own inner-most thoughts and feelings, and the art created provides viewers a physical and mental catharsis. Art can make people feel understood and connected on a deep level. It can provide companionship for the lonely and uplift the spirits of those feeling down. It can set the mood for important events or broadcast vital information. It can be used to help heal the ill and to expedite learning in children.<sup>1</sup> Studies have even shown that exposure to art can lead to a longer life.<sup>2</sup>

It should be no surprise, therefore, to learn that the COVID-19 pandemic shuttering the vast majority of the arts industry for over twelve months is having a detrimental effect on the public health. As a recent New York Times article eloquently stated: "You need to be able to access art to be able to appreciate it."<sup>3</sup> The longer individuals go without easy access to the arts, the worse the effects on their health are likely to be. Yet, the virus situation remains too precarious to open a majority of live event spaces in any capacity large enough to allow those

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<sup>1</sup> Maria Cramer, *Another Benefit to Going to Museums? You May Live Longer*, N.Y. TIMES (Dec. 22, 2019), <https://www.nytimes.com/2019/12/22/us/arts-health-effects-ucl-study.html> (last updated Dec. 27, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

venues to make a sustainable income to remain operating. With three new, more contagious variants of the virus infiltrating the United States, and at least one expected to become the more prominent strain, the timing seems worse than ever to try to get people back en masse to indoor spaces.<sup>4</sup>

Without increased funding to keep the arts industry sustained throughout the remainder of the pandemic, however, we face the possibility of the permanent loss of much of the industry before it is able to reopen in its entirety. Venue owners simply cannot continue to pay to maintain vacant spaces, and artists cannot continue to subsist on unemployment. The federal stimulus packages that have thus far been offered to the arts industry are a good start, but they are far from plentiful enough to sustain the industry as a whole. This paper argues that there needs to be a long-term, larger-scale plan to revive the arts industry through increased funding and work opportunities for arts professionals if we want to be able to continue to reap the broad health benefits from arts engagement that America has thrived on in the past.

Overall, this paper discusses the relationship between the arts, public health, and the COVID-19 pandemic, and details the effects that lack of access to the arts industry can have on the health of Americans. Part II examines the relationship between the arts and public health, illustrating the positive health effects individuals receive from their interactions with the arts. Part III details the economic effects of the pandemic on the arts industry, and Part IV discusses the effects that inaccessibility to the arts due to the pandemic is having on public health. Part V will illustrate how the arts industry has not received enough financial aid to date, and Part VI

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<sup>4</sup> See Joel Achenbach, *CDC Warns Highly Transmissible Coronavirus Variant to Become Dominant in U.S.*, WASH. POST (Jan 15, 2021, 1:00 PM), [https://www.washingtonpost.com/health/coronavirus-variant-dominant-us/2021/01/15/4420d814-5738-11eb-a817-e5e7f8a406d6\\_story.html](https://www.washingtonpost.com/health/coronavirus-variant-dominant-us/2021/01/15/4420d814-5738-11eb-a817-e5e7f8a406d6_story.html).

makes recommendations for future relief that may provide enough financial stability to sustain the industry until we can safely open arts venues for the masses again.

## II. THE RELATIONSHIP BETWEEN THE ARTS AND PUBLIC HEALTH

The relationship between the arts and public health has been widely studied since long before the COVID-19 pandemic came into existence. An evidence-based framework created by the University of Florida College of the Arts details six broad areas of both individual- and population-level health on which the arts have an influence.<sup>5</sup> This framework explains how the arts can: “1) Provide direct health benefits; 2) Increase health service equity and access; 3) Create safe, inclusive, and engaging environments; 4) Support social, cultural, and policy change; 5) Enrich research methods and practices; and 6) Strengthen health communication.”<sup>6</sup> Ample research supports this framework and undisputedly shows that arts engagement can have a positive effect on people’s mental, physical, and emotional wellbeing, throughout all facets of society. The sheer scope and volume of research supporting a positive relationship between the arts and improved public health cannot be captured within this paper, so a general overview will be provided.

The benefits to one’s health from engagement with the arts spans a wide berth of mental, emotional, and physical health advantages. For instance, a study by the World Health Organization shows that arts engagement can encourage healthy behavior; help prevent poor health; and support child development and caregiving.<sup>7</sup> The study also details how arts engagement broadly affects the social determinants of health through promotion of social

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<sup>5</sup> J. Sonke & T. Golden, *Arts and Culture in Public Health: An Evidence-Based Framework*, UNIV. OF FLA CTR. FOR ARTS IN MED. (Apr. 2020), <https://arts.ufl.edu/sites/creating-healthy-communities/resources/evidence-based-framework/>.

<sup>6</sup> *Id.*

<sup>7</sup> Daisy Fancourt & Saoirse Finn, *HEALTH EVIDENCE NETWORK SYNTHESIS REPORT 67 | What is the Evidence on the Role of the Arts in Improving Health and Well-Being? A Scoping Review*, WHO vii (2019), <https://apps.who.int/iris/bitstream/handle/10665/329834/9789289054553-eng.pdf>.

cohesion by enhancing social bonding and fostering prosocial behavior, and by addressing social inequalities and inequities through social inclusion, skills development, and health promotion.<sup>8</sup> Additionally, it shows how the arts can help encourage conflict resolution by teaching skills for constructive engagement with conflict, and identifies that arts engagement can help preserve cultural traditions and identities.<sup>9</sup> Furthermore, the study reveals that arts engagement can help manage specific illnesses such as mental illness, acute conditions, neurodevelopmental and neurological disorders, and noncommunicable diseases.<sup>10</sup> Even as little as ten weeks of visual arts participation increases neural connectivity and resilience in the brain, resulting in higher self-awareness and increased memory processing.<sup>11</sup> Moreover, a study by the University College of London confirms that involvement with the arts leads to improved overall mental health, a lower risk of depression, decreased loneliness, and decreased engagement in harmful health behaviors.<sup>12</sup>

Engagement with the arts can affect one's lifespan as well. It can both help individuals transition through end-of-life care,<sup>13</sup> as well as extend one's life.<sup>14</sup> London researches who conducted a study following thousands of individuals aged fifty-years and older over the course of fourteen years found that people who engaged with the arts were less likely to die within the

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<sup>8</sup> *Id.* at 9-10.

<sup>9</sup> *Id.* at 9.

<sup>10</sup> *Id.* at viii.

<sup>11</sup> See Anne Bolwerk, Jessica Mack-Andrick, Frieder R. Lang, Arnd Dörfler & Christian Maihöfner, *How Art Changes Your Brain: Differential Effects of Visual Art Production and Cognitive Art Evaluation on Functional Brain Connectivity*, PLOS ONE (2014), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4077746/>.

<sup>12</sup> *How the Arts Can Improve Mental Health, Especially During the Pandemic*, BLOOMBERG PHILANTHROPIES (Aug. 7, 2007), <https://www.bloomberg.org/blog/how-the-arts-can-improve-mental-health-especially-during-the-pandemic/>.

<sup>13</sup> Daisy Fancourt & Saoirse Finn, *HEALTH EVIDENCE NETWORK SYNTHESIS REPORT 67 | What is the Evidence on the Role of the Arts in Improving Health and Well-Being? A Scoping Review*, WHO 49-50 (2019), <https://apps.who.int/iris/bitstream/handle/10665/329834/9789289054553-eng.pdf>.

<sup>14</sup> Maria Cramer, *Another Benefit to Going to Museums? You May Live Longer*, N.Y. Times (Dec. 22, 2019), <https://www.nytimes.com/2019/12/22/us/arts-health-effects-ucl-study.html> (last updated Dec. 27, 2019).

period of the study than those who did not.<sup>15</sup> Even after controlling for socioeconomic factors such as income, education level, and mobility, the study still found a difference in the survival rate for individuals engaged with the arts.<sup>16</sup> Those who went to a museum or concert just once or twice per year were 14% less likely to die, and those who went once a month or once every few months were 31% less likely to die.<sup>17</sup> The article theorizes that this reduced death risk is because people who are availing themselves of the arts are more likely to be engaged with the world, because arts involvement can provide people a sense of purpose in life.<sup>18</sup>

Children can also experience health benefits from arts engagement. Studies have shown that participating in music can speed up brain development including faster language acquisition, improved reading and mathematical skills, improved memory, and even increased test scores.<sup>19</sup> Similarly, a University of Arkansas study revealed that taking students on multiple arts field trips throughout their school career promotes higher levels of social-emotional skills such as conscientiousness, higher standardized test scores, and more involvement with their school.<sup>20</sup>

In a hospital setting, engagement with the arts have shown numerous physical and mental health benefits. The aforementioned World Health Organization study indicates that premature infants who listen to music in neonatal intensive care units experience improved heart and respiration rates, improved oxygen saturation levels, better feeding and sucking abilities, a better behavioral state, reductions in inconsolable crying, and an overall reduction in the length of the

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Camille Graham, *Benefits of the Arts in Early Childhood Development*, EARLY CHILDHOOD COMM'N (July 13, 2017), <https://ecc.gov.jm/benefits-of-the-arts-in-early-childhood-development/>.

<sup>20</sup> Iflorick, *University of Arkansas Researchers Find Social-Emotional and Academic Benefits from K-12 Arts Field Trips*, UNIV. OF ARK. NEA RESEARCH LAB (Mar. 11, 2019), <https://nea-research-lab.uark.edu/university-of-arkansas-researchers-find-social-emotional-and-academic-benefits-from-k-12-arts-field-trips/>.

neonatal intensive care unit stay.<sup>21</sup> This in-hospital exposure to music was also found to reduce fear and anger reactivity for up to two years later in life.<sup>22</sup> In emergency departments, arts activities such as music, crafts, and clowning, have proven to reduce anxiety and pain, and lower blood pressure in both children and their parents.<sup>23</sup> During inpatient care, bedside arts engagement such as live music or theatre performances, sometimes in the form of arts therapies, can also help reduce anxiety and pain, lighten moods, and increase compliance with medical procedures in both children and adults.<sup>24</sup>

Caregivers are another group that benefits greatly from their relationship with the arts. This group includes family and friends caring for loved ones with chronic illnesses both in and out of healthcare settings, healthcare workers, and hospice providers. A field report by the Society for the Arts in Healthcare describes that arts programming offered to caregivers allows those individuals opportunities for creativity and self-expression, which help them “healthfully integrate” the experiences and emotions they encounter in the course of their job, rather than take them home or carry them as burdens throughout their work day.<sup>25</sup> Arts programming also helps improve the culture within the healthcare facility to one that is humane and supportive.<sup>26</sup> Within the course of the pandemic, the arts have even helped frontline medical workers process their workplace experiences with COVID patients through the use of ancient Greek tragedy

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<sup>21</sup> Daisy Fancourt & Saoirse Finn, *HEALTH EVIDENCE NETWORK SYNTHESIS REPORT 67 | What is the Evidence on the Role of the Arts in Improving Health and Well-Being? A Scoping Review*, WHO 34 (2019), <https://apps.who.int/iris/bitstream/handle/10665/329834/9789289054553-eng.pdf>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Judy Rollins, Jill Sonke, Randy Cohen, Anita Boles & Jiahan Li, *State of the Field Report: Arts in Healthcare 2009*, SOC’Y FOR THE ARTS IN HEALTHCARE 2 (2009), <https://www.americansforthearts.org/by-program/reports-and-data/legislation-policy/naappd/arts-in-healthcare-2009-state-of-the-field-report>.

<sup>26</sup> *Id.*

performance.<sup>27</sup> COVID frontline medical workers have reported suffering from physical, mental, spiritual, and moral distress due to their everyday work as the pandemic unfolds.<sup>28</sup> A group called Theatre of War for Frontline Workers is providing online seminars in which frontline medical workers view performances of ancient Greek tragedy in order to use them as “tool[s] for communalisation and reflection, reducing stigma[,] and opening up pathways to work through such difficult experiences.”<sup>29</sup> After each performance, a panel of frontline medical workers are given an opportunity to ask questions and to discuss what parts of the play touched them as representative of their experiences in caring for COVID patients.<sup>30</sup> Performances have been attended by upward of 400 frontline medical workers, and participants have reported experiencing a sense of joy, belonging, community, and most importantly, relief.<sup>31</sup>

Prison populations have also shown increased benefits from arts engagement while moving throughout the prison system. Arts programs offered in prison give inmates the opportunity to display self-expression and self-reflection, and teaches them important social and emotional life skills.<sup>32</sup> Participating in these programs has shown a 30% reduction in parole violations two years after release,<sup>33</sup> and 75% less disciplinary infractions than those received by inmates not participating in arts programming.<sup>34</sup> Additionally, arts programming participants

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<sup>27</sup> See Cynda H Rushton, Bryan Doerries, Jeremy Greene & Gail Geller, *Dramatic Interventions in the Tragedy of the COVID-19 Pandemic*, 396 LANCET 305-06 (Aug. 1, 2020), [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31641-X/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31641-X/fulltext).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Arts + Prisons & Rehabilitation*, AMS.FOR THE ARTS 1, [https://www.americansforthearts.org/sites/default/files/socialimpact/files/AFTAfact\\_Arts%2BPrisonRehab\\_ver2.pdf](https://www.americansforthearts.org/sites/default/files/socialimpact/files/AFTAfact_Arts%2BPrisonRehab_ver2.pdf) (last visited Mar. 13, 2021).

<sup>33</sup> *Arts + Prisons & Rehabilitation*, AMS.FOR THE ARTS 1, [https://www.americansforthearts.org/sites/default/files/socialimpact/files/AFTAfact\\_Arts%2BPrisonRehab\\_ver2.pdf](https://www.americansforthearts.org/sites/default/files/socialimpact/files/AFTAfact_Arts%2BPrisonRehab_ver2.pdf) (last visited Mar. 13, 2021).

<sup>34</sup> Lawrence G. Brewster, *An Evaluation of the Arts-in-Corrections Program of the California Department of Corrections*, SAN JOSE UNIVERSITY 29 (1983), [www.williamjamesassociation.org/reports/Brewster\\_report\\_full.pdf](http://www.williamjamesassociation.org/reports/Brewster_report_full.pdf).



report improved ability to understand their own emotions, to express themselves freely, and to communicate effectively, which are all important factors in prisoner rehabilitation.<sup>35</sup> Juveniles within the prison system participating in arts programming score 25-39% higher on social and emotional learning skills such as “conflict resolution, future orientation, critical response, and career readiness” after completing the programs than they did before completing it.<sup>36</sup> Most impressively, a program based out of New York called Rehabilitation Through the Arts reports that participating in arts programming has a strong impact on recidivism rates – of the 800 prisoners who have participated, fewer than 5% have returned to prison within three years.<sup>37</sup> Compared to New York’s statewide average of 40% and the national average of over 60%, that rate is astounding, and shows that arts engagement can make a huge difference for inmates while in prison, as well as when they return to the general public.<sup>38</sup>

Finally, the arts have been recognized as tools to promote health in military service members, veterans, military families, and military caregivers.<sup>39</sup> Arts interventions can provide a means to deal with stress and help provide life-long coping methods.<sup>40</sup> Participation in group arts activities with one’s own family as well as other military families can help strengthen bonds and provide a support network to combat feelings of loneliness and isolation.<sup>41</sup> Moreover, by providing means of self-expression through arts engagement, military service members and

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<sup>35</sup> See Larry Brewster, *Arts in Corrections County Jails Project*, CAL. LAWS. FOR THE ARTS (Feb. 17, 2019), <https://www.calawyersforthearts.org/resources/Documents/CountyJailsThirdEditionReport-Feb.17.19.pdf>.

<sup>36</sup> *Arts Infusion Initiative, 2010–15: Evaluation Report*, CHI. CMTY TR. 4 (Sept. 2015), <https://www.urban.org/sites/default/files/publication/67371/2000392-Arts-Infusion-Initiative-2010-15-Evaluation-Report.pdf>.

<sup>37</sup> Prison Cmtys. Int’l, *FAQ’s*, REHAB. THROUGH THE ARTS (2009), <https://www.rta-arts.org/faq>.

<sup>38</sup> *Id.*

<sup>39</sup> Ams. for the Arts, *The Arts: Promising Solutions for Meeting the Challenges Facing Today’s Military – Then and Now*, NAT’L INITIATIVE FOR ARTS & HEALTH IN THE MILITARY 2 (Nov. 30, 2016), <https://www.americansforthearts.org/sites/default/files/2016%20National%20Roundtable%20Brief%20112016.pdf>.

<sup>40</sup> *Id.* at 3.

<sup>41</sup> *Id.*

veterans are better able to cope with post-traumatic stress, traumatic brain injuries, and anxiety and depression.<sup>42</sup> These expressive engagements can also help improve sleep, impulse control, and concentration, and can act as a means of suicide prevention.<sup>43</sup> Additionally, arts engagement can help physical recovery from injuries sustained in combat through “visuo-spatial, cognitive, social, and skilled motor exploration.”<sup>44</sup> The benefits from arts engagements can help military service members transition from life in the military back to civilian life, which is noted to be one of the hardest experiences the military faces.<sup>45</sup>

As shown, the benefits the arts industry provides to all angles of society and the public health are far and wide. However, in order to receive the benefits that come from engagement with the arts, the arts must be accessible and available. Currently, due to the pandemic restrictions and the underfunding the arts are receiving, the threat of sustained or permanent loss of much of the arts industry is tangible. Immediate and prolonged actions must be taken to keep the arts industry afloat, or we are in danger of losing substantial elements of our society’s health and wellbeing.

### III. THE ECONOMIC EFFECTS OF THE COVID-19 PANDEMIC ON THE ARTS INDUSTRY

The loss of the arts industry because of the pandemic has had a staggeringly destructive economic impact on the country. A 2017 U.S. Bureau of Economic Analysis reports that, “arts and cultural production accounts for \$877,809,406,086 and 4.5% of the U.S. economy,” and provides 5,107,889 jobs to the job market.<sup>46</sup> Since the pandemic began, however, an ongoing study by the Americans for the Arts reports that there has been a financial loss to the nonprofit

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 4.

<sup>46</sup> *Creative Economy State Profiles*, NAT’L ASSEMBLY OF STATE ART AGENCIES (2017), [https://nasaa-arts.org/nasaa\\_research/creative-economy-state-profiles/](https://nasaa-arts.org/nasaa_research/creative-economy-state-profiles/).

arts and cultural organizations estimated to be \$15.3 billion, and a loss of \$15.5 billion in subsequent audience spending at local businesses.<sup>47</sup> The study shows that approximately 99% of arts and culture organizations have had to cancel events, and 488 million patrons in attendance were lost.<sup>48</sup> A 2021 study by the Johns Hopkins University Center for Civil Social Studies revealed that, by the end of 2020, the nonprofit arts field employment was down 36.6% from the beginning of the year.<sup>49</sup> This rate is almost five times the decrease in the entire nonprofit workforce, which showed only a 7.4% decrease, cumulatively.<sup>50</sup> Financial losses of this scope to the arts industry as a whole are undoubtedly going to leave scars for years to come.

With no certain end in sight to the arts industry's financial troubles, many arts professionals are facing impossible choices about how to continue to sustain themselves. The previously mentioned study by the Americans for the Arts provides that 63% of artists and creatives have become fully unemployed, 95% have experienced some loss of income, and each creative lost an estimated average of \$21,800 in wages since the pandemic began.<sup>51</sup> A nationwide collective loss in arts wages is estimated to be an astounding \$50.6 billion in 2020 alone.<sup>52</sup>

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<sup>47</sup> Randy Cohen, *COVID-19's Impact on The Arts Research Update: March 8, 2021*, AMS. FOR THE ARTS (Mar. 8, 2021), <https://www.americansforthearts.org/sites/default/files/COVID-19%20Pandemic%20Impact%20on%20the%20Arts%20Research%20Update%20%203-8-2021.docx>.

<sup>48</sup> *The Economic Impact of Coronavirus on the Arts and Culture Sector*, AMS. FOR THE ARTS, <https://www.americansforthearts.org/by-topic/disaster-preparedness/the-economic-impact-of-coronavirus-on-the-arts-and-culture-sector> (last visited Mar. 13, 2021).

<sup>49</sup> Chelsea Newhouse, *Nonprofits Lost Over 50,000 Jobs in December, Reversing a Slow Recovery*, JOHNS HOPKINS CTR. FOR CIVIL SOC'Y STUDIES 1 (Jan. 19, 2021), <http://bit.ly/dec-jobs-pdf>.

<sup>50</sup> *Id.*

<sup>51</sup> *The Economic Impact of Coronavirus on the Arts and Culture Sector*, AMS. FOR THE ARTS, <https://www.americansforthearts.org/by-topic/disaster-preparedness/the-economic-impact-of-coronavirus-on-the-arts-and-culture-sector> (last visited Mar. 13, 2021).

<sup>52</sup> Randy Cohen, *COVID-19's Impact on The Arts Research Update: January 11, 2021*, AMS. FOR THE ARTS (Jan. 11, 2021) (on file with author).

Unfortunately, 78% of artists and creatives report that they currently have no post-pandemic recovery plan, leaving their future a big question mark.<sup>53</sup> Such uncertainty is forcing some arts professionals to elect early retirement, rather than struggle to make ends meet with limited income. David Rae, a West Hollywood certified financial planner and president of DRM Wealth Management, reports seeing an especially high rate of early retirements packages being offered to his clients in the entertainment business, even from large, wealthy companies such as Sony.<sup>54</sup> News outlets similarly report that 93 workers at the Metropolitan Museum of Art<sup>55</sup> and 56 workers at Boston's Museum of Fine Arts<sup>56</sup> have elected retirement over furlough or potential layoff. Sadly, other artists have been driven out of expensive cities like New York City or have lost their health insurance due to inability to pay the premiums.<sup>57</sup> Although part of the third stimulus package, which passed March 10, 2021, includes a 100% COBRA subsidy<sup>58</sup> to allow furloughed employees to remain on their employer's insurance, or an Affordable Care Act subsidy for those who meet certain standards,<sup>59</sup> it sadly seems to have come too late for many.<sup>60</sup>

In arts and cultural hubs like New York City, the losses are especially disastrous. At a New York State Senate meeting in October 2020, Eli Dvorkin, the editorial policy director of the

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<sup>53</sup> Randy Cohen, *COVID-19's Impact on The Arts Research Update: March 8, 2021*, AMS. FOR THE ARTS (Mar. 8, 2021), <https://www.americansforthearts.org/sites/default/files/COVID-19%20Pandemic%20Impact%20on%20the%20Arts%20Research%20Update%202021-8-2021.docx>.

<sup>54</sup> Lori Ioannou, *A Wave of Early Retirement Hits the Workforce. How to Negotiate the Best Package for You*, CNBC (Aug. 6, 2020, 9:33 AM), <https://www.cnbc.com/2020/08/06/wave-of-early-retirement-hits-workforce-how-to-negotiate-best-deal.html>.

<sup>55</sup> Sarah Cascone, *Dozens More Layoffs Hit the Metropolitan Museum of Art, Which Has Shed 20 Percent of Its Staff Since March*, ARTNET (Aug. 5, 2020), <https://news.artnet.com/art-world/layoffs-metropolitan-museum-art-1900013>.

<sup>56</sup> Nancy Kenney, *Museum of Fine Arts, Boston Lays Off 57 Employees and Says 56 More Will Take Early Retirement*, THE ART NEWSPAPER (Aug. 3, 2020, 9:45 PM), <https://www.theartnewspaper.com/news/mfa-boston-lays-off-57-employees-and-says-56-more-will-take-early-retirement>.

<sup>57</sup> Patricia Cohen, *A 'Great Cultural Depression' Looms for Legions of Unemployed Performers*, N.Y. TIMES (Dec. 26, 2020), <https://www.nytimes.com/2020/12/26/arts/unemployed-performer-theatre-arts>.

<sup>58</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, §9501, 135 Stat. 4, 128-40 (2021).

<sup>59</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, §2305, 135 Stat. 4, 40-41 (2021).

<sup>60</sup> See Matt Stevens & Jeremy Fassler, *The Virus Cost Performers Their Work, Then Their Health Coverage*, N.Y. TIMES (Mar. 9, 2021), <https://www.nytimes.com/2021/03/09/arts/coronavirus-actors.html>.

Center for Urban Future, reported that jobs in the performing arts in New York City have declined 72% from September 2019.<sup>61</sup> The reason for this is clear. As explained by Patricia Cohen of the New York Times, “in many areas, arts venues — theaters, clubs, performance spaces, concert halls, festivals — were the first businesses to close, and they are likely to be among the last to reopen.”<sup>62</sup> Adam Krauthamer, President of New York’s Local 802 of the American Federation of Musicians, relayed to the New York Times that 95% of his members are not currently working on a regular basis due to the mandated shutdown of the industry that is currently in effect.<sup>63</sup> He laments, “My fear is we’re not just losing jobs, we’re losing careers. It will create a great cultural depression.”<sup>64</sup> Indeed, Julia Jacobs of the New York Times notes that not since the Great Depression has America faced a crisis that impacted every performing arts organization in the country.<sup>65</sup> At that time, in order to counterbalance declines in philanthropy and ticket sales, arts organizations had to settle for cuts, which resulted in discourse, strikes, and lockouts<sup>66</sup>. Unfortunately, the current pandemic threatens to render similar results.

A recent decline in virus cases will allow some state to begin lifting capacity limits for venues throughout March and April 2021, but for many, these changes may be too little, too late. Organizations such as the New York Philharmonic, the Boston Symphony Orchestra, and the Metropolitan Opera have all asked their employees to take steep pay cuts and wage concessions that unions fear will outlast the pandemic.<sup>67</sup> The Metropolitan Opera has currently locked out all

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<sup>61</sup> Emily Fego, *Cultural and Arts Industry Discuss Major Losses Due to COVID-19*, LEGIS. GAZETTE (Nov. 6, 2020), <https://legislativegazette.com/cultural-and-arts-industry-discuss-major-losses-due-to-covid-19/>.

<sup>62</sup> Patricia Cohen, *A ‘Great Cultural Depression’ Looms for Legions of Unemployed Performers*, N.Y. TIMES (Dec. 26, 2020), <https://www.nytimes.com/2020/12/26/arts/unemployed-performer-theatre-arts>.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Julia Jacobs, *Even When the Music Returns, Pandemic Pay Cuts Will Linger*, N.Y. TIMES (Dec. 17, 2020), <https://www.nytimes.com/2020/12/17/arts/music/performing-arts-unions-pandemic.html>.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

of its union workers after labor disputes broke down in December 2020, and the union contracts have since expired.<sup>68</sup> Due to low Florida park attendance and its inability to open its California resort, the Walt Disney Company plans to lay off 32,000 employees by the end of March 2021.<sup>69</sup> Also, Broadway houses and some large performance venues in New York City are still forced to remain closed, despite Governor Cuomo announcing that live performance venues may reopen at 33% capacity, or up to 100 people indoors and 200 people outdoors.<sup>70</sup> Attendance at such low numbers in large houses are not financially sustainable for venues with such high operating costs.<sup>71</sup> Larger venues hope for higher capacity limits, which may allow them to reopen sometime in Fall 2021.<sup>72</sup>

Lighter restrictions do offer some relief for smaller organizations, however.

Organizations such as Lincoln Center and the Glimmerglass Festival plan to try to run outdoor performances throughout Summer 2021, the results of which remain to be seen.<sup>73</sup> Additionally, movie theatres in New York City can now open at 25% capacity, or up to fifty people per screen, and theater owners feel hopeful about trying to operate under the restricted occupancies.<sup>74</sup> In Texas, the Governor has completely eliminated the state's capacity restrictions effective March 10, 2021, which allows live performance venues to operate at 100% capacity, and brings much-

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<sup>68</sup> Jeff Lunden, *Metropolitan Opera Backstage Workers: 'Without People, The Opera Is Nothing'*, NRP (Feb. 19, 2021, 6:23 PM), <https://www.npr.org/2021/02/19/969397479/metropolitan-opera-backstage-workers-without-people-the-opera-is-nothing> (last updated Feb. 19, 2021, 9:46 PM).

<sup>69</sup> Erin Schwartzel, *Disney Plans More Layoffs as Covid-19 Pandemic Hits Businesses*, WALL. ST. J. (Nov. 26, 2020 2:53 PM), <https://www.wsj.com/articles/walt-disney-to-lay-off-32-000-workers-as-covid-19-hits-theme-parks-11606376422>.

<sup>70</sup> Michael Paulson, *New York to Allow Limited Live Performances to Resume in April*, N.Y. TIMES (Mar. 3, 2021), <https://www.nytimes.com/2021/03/03/arts/new-york-arts-reopening.html>.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Sarah Whitten & Noah Higgins-Dunn, *Movie Theaters in New York City Can Open in March at 25% Capacity*, CNBC (Feb. 22 2021, 3:24 PM), <https://www.cnbc.com/2021/02/22/movie-theaters-in-new-york-city-can-open-in-march-at-25percent-capacity.html> (last updated Feb. 22, 2021, 4:34 PM).

needed financial relief to the sizeable arts industry in the state.<sup>75</sup> Until the rest of the country can safely follow suit, however, the financial stability of the arts industry in America remains grave.

#### IV. PUBLIC HEALTH IMPACTS DUE TO THE LACK OF ACCESS TO THE ARTS DURING THE PANDEMIC

There is no denying that living within the confines of the pandemic for the past year has taken a great toll on the public health. By now, it is likely that most people have experienced some amount of loneliness, stress, anxiety, and depression, due to the restrictions in place to stop the virus spread. Globally, many people are even struggling with “pandemic fatigue,” a term the World Health Organization (WHO) has defined as “demotivation to follow recommended protective behaviours, emerging gradually over time and affected by a number of emotions, experiences and perceptions.”<sup>76</sup> The WHO concluded that, although worldwide studies have shown that most people are very knowledgeable about COVID-19 defensive behaviors (such as social distancing and mask-wearing), emotions and related circumstances can have a greater bearing on people’s behaviors than knowledge.<sup>77</sup> This indicates that attending to the effects of the pandemic on people’s mental and physical health will not only benefit the individuals, but may also improve overall public health by leading to greater compliance with protective behaviors.

Here, engagement with the arts can help. As previously discussed, the University College of London found that lifelong engagement with the arts can reduce adverse health behaviors.<sup>78</sup> This finding could indicate that engagement with the arts may be a defense against pandemic

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<sup>75</sup> Robert Pasbani, *Texas Concert Venues Can Re-Open At 100% Capacity & Maskless Next Week, According to Governor*, METAL INJECTION (Mar. 2, 2021), <https://metalinjection.net/shocking-revelations/texas-concert-venues-can-re-open-at-100-capacity-maskless-according-to-governor>.

<sup>76</sup> *Pandemic Fatigue*, WHO 7 (2020), <https://apps.who.int/iris/bitstream/handle/10665/335820/WHO-EURO-2020-1160-40906-55390-eng.pdf?sequence=3&isAllowed=y>.

<sup>77</sup> *Id.* at 9.

<sup>78</sup> *How the Arts Can Improve Mental Health, Especially During the Pandemic*, BLOOMBERG PHILANTHROPIES (Aug. 7, 2007), <https://www.bloomberg.org/blog/how-the-arts-can-improve-mental-health-especially-during-the-pandemic/>.

fatigue-induced risky health behaviors, such as refusal to wear a mask or social distance.

However, since the pandemic has reduced or eliminated the public's access to the arts, this inaccessibility may actually be leading to further pandemic fatigue, and subsequently may be worsening and therefore lengthening the pandemic itself. The cycle will continue until it is broken.

The suffering people are experiencing due to inaccessibility of the arts does not occur in a bubble. Arts workers in an Australian study have detailed how they are not only mentally suffering because they feel detached from their own arts, but they are also further suffering by watching other artist friends spiral into a depression around them.<sup>79</sup> This shows how removal from the arts can cause a compound effect on negative mental health.<sup>80</sup> Because the arts industry is typically founded on social interactions and tight bonds with fellow artists, this makes sense. If those who form the community around a person are declining, it takes a lot not to be pulled down alongside everyone else. For this to happen, however, could have devastating effects not only on the artists themselves, but on society as a whole. Some of the artists within the study relay that they are on the brink of abandoning their creative lives out of fear that the arts industry will be permanently damaged.<sup>81</sup> They fear that their skills will become tarnished, that they will age out of their industry, and that there is no good way out of the current crisis.<sup>82</sup> If society loses artists, however, society will lose out on the health benefits that only the arts industry can bring. As Director of the Sydney Museum of Contemporary Art, Liz Ann Macgregor, opined, arts can help

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<sup>79</sup> Jacinthe Flore, Averyl Gaylor & Natalie Hendry, *'Parts of Life Will be Damaged Forever' — Arts Workers Describe the Pandemic's Impact on Their Mental Health*, THE CONVERSATION (Oct. 11, 2020, 10:23 PM), <https://theconversation.com/parts-of-life-will-be-damaged-forever-arts-workers-describe-the-pandemics-impact-on-their-mental-health-147252>.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*



lead recovery and lead people back into society through reconnection with the real world.<sup>83</sup> No other industry except the arts industry will be able to bring the community together in the same healing way.

A particularly overwhelming public health impact the arts industry professionals are facing throughout the pandemic is the struggle against addiction after so many months of isolation and unemployment. A Los Angeles Times article reports that the potential two-year breakdown of the arts industry has left musicians feeling “directionless, broke and scared,” and turning to substances or addictions to numb their pain.<sup>84</sup> Jodi Milstein, a therapist specializing in addiction treatment in music and the entertainment industry, relayed that musicians are worried that their ability to participate in their crafts will no longer be available after the pandemic, and are struggling with sobriety in the wake.<sup>85</sup> Even for those who did not previously have substance abuse issues, the kind of struggles that musicians are facing and the loss of any sense of control may feed into anxieties which can “kickstart” substance abuse.<sup>86</sup> Unemployment has left some musicians struggling to retain their health insurance and therefore unable to pay for rehab or therapy to help overcome their addictions.<sup>87</sup> At least three popular musicians have lost their lives to addiction during the pandemic, and others have been upfront about seeking help.<sup>88</sup> Lives lost within the arts industry are losses to society as a whole.

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<sup>83</sup> Liz Ann Macgregor, *We Need an Arts-Led Recovery to Put This Crisis Behind Us*, SYDNEY MORNING HERALD (Apr. 15, 2020, 12:00 AM), <https://www.smh.com.au/culture/art-and-design/we-need-an-arts-led-recovery-to-put-this-crisis-behind-us-20200414-p54jp5.html>.

<sup>84</sup> August Brown, *COVID-19 Wreaked Havoc with Their Lives. Now, Musicians Battle Another Epidemic: Addiction*, L.A. TIMES (Dec. 28, 2020, 1:36 PM), <https://www.latimes.com/entertainment-arts/music/story/2020-12-28/musicians-addiction-covid-19-cady-groves-justin-earle>.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

The evidence on how much even small amounts of arts engagement can benefit public health is clear. An ongoing study by the University College of London, the COVID Social Study, shows that individuals participating in arts activities for just thirty minutes per day while in quarantine report “lower rates of anxiety and depression and greater life satisfaction” than individuals not participating in arts activities.<sup>89</sup> These activities included reading for pleasure, listening to music, and practicing a creative hobby, showing that arts engagement of all different kinds can have great impacts on mental and emotional wellbeing.<sup>90</sup> The continued results from this open-ended study will hopefully help policymakers across the globe realize that the public needs access to the arts in order to maintain mental and emotional health. While large-scale gatherings may not be practical right now, smaller-scale options should be made available sooner rather than later. Fortunately, a similar study to the COVID Social Study is in progress in the United States as a partnership between the University College of London, the EpiArts Lab of the University of Florida College of Arts, and Americans for the Arts.<sup>91</sup> Like the United Kingdom version, the study will inquire upon the long-term benefits of arts engagement for public health, and will run for several decades.<sup>92</sup> As results become available, they should help lead the new Biden administration to being able to put a quantitative value on the benefits of rebuilding the arts industry as a remedy to upkeeping and restoring the public health.

## V. AIDING THE ARTS INDUSTRY

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<sup>89</sup> *How the Arts Can Improve Mental Health, Especially During the Pandemic*, BLOOMBERG PHILANTHROPIES (Aug. 7, 2007), <https://www.bloomberg.org/blog/how-the-arts-can-improve-mental-health-especially-during-the-pandemic/>.

<sup>90</sup> *Id.*

<sup>91</sup> *COVID-19 and Social Distancing Study*, UNIV. OF FLA CTR. FOR ARTS IN MED. (Apr. 8, 2020), <https://arts.ufl.edu/academics/center-for-arts-in-medicine/researchandpublications/enforced-social-isolation-and-mental-health-covid-19/>.

<sup>92</sup> *How the Arts Can Improve Mental Health, Especially During the Pandemic*, BLOOMBERG PHILANTHROPIES (Aug. 7, 2007), <https://www.bloomberg.org/blog/how-the-arts-can-improve-mental-health-especially-during-the-pandemic/>.

Recovery for the arts industry is not going to be a single-step operation, nor is it going to be a one-size-fits-all approach. There are many facets of the industry that need to be addressed, and multiple ways to approach the solution. The help that the industry needs must occur on personal, local, state, and national levels, and everyone needs to do their part to save the industry that benefits us all.

#### A. *COVID-19 Vaccines*

Without a way to safely get people into indoor venues in large enough numbers to make a financially viable impact, the arts will not survive. Until the virus numbers are low, those types of venues and events will not be possible. Vaccination is the first step toward our nation recovering as a whole and moving forward toward a pre-pandemic life. It is also an imperative step for reopening the arts industry. At a recent conference, Dr. Anthony Fauci, President Biden's Chief Medical Advisor, projected that theatre and other live arts could likely reopen in Fall 2021, albeit probably still in masks, pending the speed of the vaccine rollout.<sup>93</sup> The recent increased venue capacity limits in many states make that possibility seem nearly on the horizon.<sup>94</sup> Upon news of the increased capacities, the Actors' Equity Association pleaded with New York Governor Cuomo to "prioritize getting members of the arts sector vaccinated." However, with the up-and-down vaccine shortages and the slow distribution, the time that it may take for the United States to achieve herd immunity, requiring approximately 70%-90% of the population to be vaccinated, is still in question.<sup>95</sup> Additionally, the potentially lower vaccine

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<sup>93</sup> Julia Jacobs, *Fauci Suggests Theaters Could Reopen 'Some Time in the Fall'*, N.Y. TIMES (Jan. 9, 2021), <https://www.nytimes.com/2021/01/09/arts/fauci-coronavirus-performing-arts.html>.

<sup>94</sup> Michael Paulson, *New York to Allow Limited Live Performances to Resume in April*, N.Y. TIMES (Mar. 3, 2021), <https://www.nytimes.com/2021/03/03/arts/new-york-arts-reopening.html>.

<sup>95</sup> Peter Szekely, *Scattered U.S. Vaccine Shortages Halt Some COVID-19 Inoculations*, REUTERS (Jan. 15, 2021, 2:31 PM), <https://www.reuters.com/article/health-coronavirus-usa/scattered-u-s-vaccine-shortages-halt-some-covid-19-inoculations-idUSL1N2JQ1YT>.

efficacy against the more contagious virus variants is still being studied, and could create a hurdle in the race to achieve widespread immunity, but scientists remain hopeful.<sup>96</sup>

### B. *Government Financial Aid*

Adequate funding is also a crucial step to getting the arts industry back off the ground. In the same way that vaccination is important in order to make it safer for people to attend events, there must be funding to produce events for people to attend.

Thus far, the federal government has offered the arts industry three large sums of money over the course of its three federal relief stimulus packages. In March 2020, the Coronavirus Aid, Relief and Economic Securities Act (“CARES Act”) was passed by Congress and signed into law, providing the first of three federal stimulus packages to date.<sup>97</sup> The package gave \$75 million to the National Endowment for the Arts to provide relief to arts organizations due to the industry-wide shutdown.<sup>98</sup> Of the \$75 million, 40% was given directly to state and regional arts agencies who distributed the funds as they deemed appropriate.<sup>99</sup> The remaining amount was distributed to 855 organizations across the nation selected by the National Endowment for the Arts in order to “support staff salaries, fees for artists or contractual personnel, and facilities costs.”<sup>100</sup> These funds did not go far, however, as illustrated by the statistics on arts industry unemployment and economics listed above.<sup>101</sup> The \$75 million in relief funds barely scratched the surface of the deficit the arts industry was facing as a nation. As detailed throughout this

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<sup>96</sup> Joel Achenbach, *CDC Warns Highly Transmissible Coronavirus Variant to Become Dominant in U.S.*, WASH. POST (Jan. 15, 2021, 1:00), [https://www.washingtonpost.com/health/coronavirus-variant-dominant-us/2021/01/15/4420d814-5738-11eb-a817-e5e7f8a406d6\\_story.html](https://www.washingtonpost.com/health/coronavirus-variant-dominant-us/2021/01/15/4420d814-5738-11eb-a817-e5e7f8a406d6_story.html).

<sup>97</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

<sup>98</sup> *Id.* at 552.

<sup>99</sup> *National Endowment for the Arts on COVID-19*, Nat’l Endowment for the Arts, <https://www.arts.gov/about/nea-on-covid-19> (last visited Mar. 14, 2021).

<sup>100</sup> *Id.*

<sup>101</sup> *The Economic Impact of Coronavirus on the Arts and Culture Sector*, AMS. FOR THE ARTS, <https://www.americansforthearts.org/by-topic/disaster-preparedness/the-economic-impact-of-coronavirus-on-the-arts-and-culture-sector> (last visited Mar. 13, 2021).

paper, furloughs, layoffs, and permanent shuttering of shows and venues continued to happen, due to the limited funds available to spread across so many needy organizations. There simply was not enough to go around in a viable way.

In December 2020, the Save our Stages Act, now called the Shuttered Venue Operators Grant program, passed as part of a second federal stimulus package.<sup>102</sup> This grant program will be administered by the Small Business Administration and will distribute \$15 billion to qualifying arts organizations, businesses, or professionals.<sup>103</sup> Qualifying entities will receive initial grants in the amount equal to 45% of their 2019 gross earned revenue, and, if funds remain after all initial grants are distributed, supplemental grants equal to 50% of the initial grant if the entity is still experiencing a 70% earned revenue loss when comparing the first quarters of 2021 and 2019.<sup>104</sup> Considering that the not for profit arts sector has alone lost \$15.2 billion since the pandemic started, clearly the \$15 billion stimulus package will also be spread much too thin to make a large impact on resuscitating the arts industry overall. As before, the sheer number of individuals and organizations in need is just too great and the decimal places on the second relief reward are still not high enough.

As of March 10, 2021, the American Rescue Plan Act of 2021, a long-awaited third federal stimulus package designed by President Biden, passed into law.<sup>105</sup> This package is a step in the right direction, as it includes much more comprehensive funding for the arts industry than the first two packages that passed. This package includes an additional \$135 million each in additional funding for both the National Endowment for the Arts as well as the National

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<sup>102</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, §278(d), 134 Stat. 1182, 1983 (2020).

<sup>103</sup> *Save Our Stages Act*, NATIONAL INDEPENDENT VENUE ASSOCIATION (2021), <https://www.nivassoc.org/sos-act>.

<sup>104</sup> *Id.*

<sup>105</sup> American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4 (2021).

Endowment for the Humanities, \$175 million for the Corporation for Public Broadcasting, and \$1.25 billion more for the Shuttered Venue Operators Grant Program.<sup>106</sup> The package also extends an additional \$300 per week to unemployment insurance through September.<sup>107</sup> Overall, it is the best financial package the arts industry has seen when viewed comprehensively, even if it is not the largest monetarily, because of the way the money is specifically delineated. This will make sure specific sectors are getting their fair share, and no one is left behind. While it is too soon at the time of writing to know how the speed and ease of the distribution of funds will end up, a simple look at the rewards offered makes it clear that the funding is still not enough to make dent in the debt already occurred from the prolonged shutdown.

The Paycheck Protection Program (PPP) also offers another source of federal funding for small arts businesses through loans that can pay up to eight weeks of payroll costs, including benefits.<sup>108</sup> The program additionally allows businesses to use their loans to pay rent, interest on their mortgages, or cover their utilities if they so choose.<sup>109</sup> Borrowers must either apply for loan forgiveness, if they qualify, or repay the loans.<sup>110</sup> As of the program's second draw, the Arts, Entertainment, and Recreation sector had received 130,760 loans, totaling \$8,223,383,720 in funds, which is equal to only 1.57% of total funds lent.<sup>111</sup> As part of the third stimulus package, 501(c)(5) labor unions are now eligible for loans,<sup>112</sup> although the program is only slated to run

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<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *The CARES Act Provides Assistance to Small Businesses*, U.S. DEP'T OF TREASURY (2021), <https://home.treasury.gov/policy-issues/cares/assistance-for-small-businesses>.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Paycheck Protection Program (PPP) Report Approvals through 08/08/2020*, U.S. SMALL BUS. ADMIN. (Jan. 8, 2021), <https://home.treasury.gov/system/files/136/Top-line-Overview-of-Second-Draw-PPP.pdf>.

<sup>112</sup> *Congress Passes American Rescue Plan Act Following Biden Proposal, Delivers Comprehensive Relief for IATSE Members*, IATSE C.A.R.E.S. (Mar. 10, 2021), <https://iatsecares.org/2021/03/10/congress-passes-american-rescue-plan-act-following-biden-proposal-delivers-comprehensive-relief-for-iatse-members/>.

through March 31, 2021.<sup>113</sup> Of note is the fact that businesses that received PPP loans on or after the date of enactment of the Shuttered Venue Operators Grant program become ineligible to receive Shuttered Venue Operators Grant program grants.<sup>114</sup> This leaves businesses that could benefit from both programs at a loss, and given the fact that so few PPP loans have been disbursed to arts businesses, this may be a damaging consequence to the overall arts industry if one form of relief or the other is not enough to sustain an organization by itself.

### *C. Private Financial Aid*

A good deal of private funding has been provided to the arts industry through philanthropic and grassroots grants. To help the struggling industry, organizations such as the Americans for the Arts have curated databases of available relief funds that arts organizations or professionals in need can apply to.<sup>115</sup> Because these are private funding, most do not have the same required qualifications or limitations that the federal funding options have.

One of the largest private funds is the National Independent Venue Association (NIVA) Emergency Relief Fund, which awards grants to the most needy independent venues, until they are able to receive their portion of the Shuttered Venue Operators Grant program relief.<sup>116</sup> The NIVA Emergency Relief Fund is financed through donations from various music fans, artists, and corporations, and has provided \$3 million in desperately-needed funds to 153 independent

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<sup>113</sup> *Paycheck Protection Program*, U.S. SMALL BUS. ADMIN., <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program> (last visited March 14, 2021).

<sup>114</sup> *Save Our Stages Act*, NATIONAL INDEPENDENT VENUE ASSOCIATION (2021), <https://www.nivassoc.org/sos-act>.

<sup>115</sup> *Coronavirus (COVID-19) Resource and Response Center*, AMERICANS FOR THE ARTS (2021), <https://www.americansforthearts.org/by-topic/disaster-preparedness/coronavirus-covid-19-resource-and-response-center>.

<sup>116</sup> *EMERGENCY RELIEF FUND AWARDS \$3M IN CRITICAL GRANTS, PROVIDING SHORT-TERM AID TO SOME OF THE MOST VULNERABLE INDEPENDENT VENUES AS THE INDUSTRY WAITS FOR EMERGENCY RELIEF FROM THE SAVE OUR STAGES ACT*, NATIONAL INDEPENDENT VENUE ASSOCIATION (Jan. 6, 2021), <https://www.nivassoc.org/s/NIVA-ERF-Release-Final-bfp4.pdf>.

venues and promoters throughout the nation.<sup>117</sup> Sadly, the need for more aid is still pressing, as NIVA received four times the requests for funding than it had the ability to grant.<sup>118</sup> In order to accommodate the outstanding \$11 million worth of aid requests, the program is still accepting donations.<sup>119</sup> In Denver, the COVID-19 Arts & Culture Relief Fund is in the process of distributing \$1.2 million in grants to forty-one local arts and culture organizations.<sup>120</sup> Additionally, the First Lady of New Jersey has chaired the New Jersey Arts and Culture Recovery Fund, which has raised more than \$1.6 million in funds for arts organizations.”<sup>121</sup>

Although the private funding described above has been generous in size, research shows that overall philanthropic giving to the arts industry has dropped by 14% over the course of the pandemic.<sup>122</sup> While not surprising given the financial circumstances of most people, philanthropic giving is a situation that is most likely to improve only once the arts industry is actually up and running. People typically like to donate to organizations that they benefit from, and if the arts are their chosen benefactors, there is, thus-far, little on the side of output except for hope for the organization’s better future.

#### D. *Work Opportunities for Arts Professionals*

Throughout the entirety of the 2020-portion of the pandemic, work for artists existed largely in the online world. Live-streamed performance and visual arts events from artists’ homes dominated the television and social media platforms. Artists taught art classes from their

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<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> Richard Florida & Michael Seman, *COVID Crisis: We Need All Hands-on Deck to Save America's Arts and Culture Economy*, USA TODAY (Sept. 8, 2020, 5:01 AM), <https://www.usatoday.com/story/opinion/2020/09/08/covid-destroying-american-arts-culture-economy-save-it-now-column/5737761002/> (last updated Sept. 9, 2020, 9:55 AM).

<sup>121</sup> *Id.*

<sup>122</sup> Jason Farago, *The Arts Are in Crisis. Here's How Biden Can Help.*, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/13/arts/design/arts-stimulus-biden.html> (last updated Jan. 15, 2021).



bedrooms, put on concerts from their living rooms, and participated in network broadcast events such as the Disney Family Singalong series.<sup>123</sup> Only a very limited number of television shows such as the View never stopped airing because they were able to immediately switch to a remote-broadcast format.<sup>124</sup> Museums such as the American Museum of Natural History and the New York City zoos moved online, offering virtual field trips and interactive resources.<sup>125</sup> Even the Emmys<sup>126</sup> and the Golden Globes<sup>127</sup> were broadcast mostly live from people's couches this season. However hokey many of these live-streamed events were, they were still providing income to the arts professionals, and providing some form of arts engagement to viewers, two things people desperately need in order to maintain their health and sanity.

In-person employment opportunities for arts professionals have been harder to come by, however. Some communities have tried to come up with creative ways to employ their artists throughout the pandemic by hiring them to convey COVID-19 health information through displays such as murals, signage, comics, poems, and song and dance videos.<sup>128</sup> For other artists, the warm weather over the summer and early fall of 2020 provided opportunities to hold art shows or live performances tailored to small, socially-distanced audiences in outdoor settings.

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<sup>123</sup> *The Disney Family Singalong*, ABC <https://abc.com/shows/the-disney-family-singalong> (last visited Mar. 13, 2021).

<sup>124</sup> Armando Tinoco, *How 'The View' Is Mastering Doing the Show Remotely*, SHOWBIZ CHEATSHEET (May 9, 2020), <https://www.cheatsheet.com/entertainment/the-view-mastering-live-show-remotely.html/>.

<sup>125</sup> Emily Fego, *Cultural and Arts Industry Discuss Major Losses Due to COVID-19*, LEGIS. GAZETTE (Nov. 6, 2020), <https://legislativegazette.com/cultural-and-arts-industry-discuss-major-losses-due-to-covid-19/>.

<sup>126</sup> Nardine Saad, *2020 Emmy Awards: How to Watch This Year's Pandemic Edition*, L.A. TIMES (Sept. 18, 2020, 7:00 AM), <https://www.latimes.com/entertainment-arts/tv/story/2020-09-18/how-to-watch-emmys-2020>.

<sup>127</sup> Nellie Andreeva, *Golden Globes from Home: Plaid & Hawaiian Shirts, Hoodies, Pajamas, Bernie Sanders Cutout, Adorable Kids & Pets*, DEADLINE (Feb. 28, 2021, 10:54 PM), <https://deadline.com/2021/02/golden-globes-jason-sudeikis-bill-murray-jeff-daniels-shirts-hoodie-bernie-sanders-photo-gallery-1234703616/>.

<sup>128</sup> *Creating Healthy Communities: Arts + Public Health in America*, UNIV. FLA. COLL. OF THE ARTS (2021), <https://arts.ufl.edu/sites/creating-healthy-communities/covid-19-arts-response/arts-covid-19-response/>.

Even the Macy's Thanksgiving Day Parade<sup>129</sup> and the Times Square New Year's Eve event<sup>130</sup> were able to take place social distanced outdoors, albeit with limited live audiences, and in extremely pared-down scales.

Additionally, a delayed fall television season has allowed some shows to resume filming with extremely scaled down crews. Due to state- and city-mandated capacity limits and social distancing guidelines, these productions are not able to provide large scale employment. In New York City, for example, the city guidelines only allow up to 50% occupancy in a workspace for media production, but many networks have even more stringent capacity limits.<sup>131</sup> This limited remote and in-person work is not steady or widespread enough to benefit the industry as a whole. While it is sustaining some individuals, it is not sustaining the industry overall.

## VI. RECOMMENDATIONS FOR FUTURE ARTS INDUSTRY AID

There is no doubt that more financial aid is needed, no matter whether its federal, state, or local, if the arts industry is to survive largely intact. Additionally, unemployment relief through actual employment opportunities is a must. There are several viable routes that should be able to aid the arts industry in both the near and distant future.

On the state-level, a proposal of tax incentive programs for arts venues provides a solution that would lessen the burden on states, which are already floundering financially due to the strains of the pandemic. For instance, at a New York State roundtable meeting in October 2020, Thomas Ferrugia, Director of Governmental Affairs for the Broadway League, proposed

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<sup>129</sup> Michael Schneider, *How the Macy's Thanksgiving Day Parade Will Be Different in 2020 on NBC*, VARIETY (Nov. 24, 2020, 6:05 AM), <https://variety.com/2020/tv/news/macys-thanksgiving-day-parade-2020-nbc-coronavirus-1234838869/>.

<sup>130</sup> Alexa Lardieri, *New York City's Time Square Will Host Virtual New Year's Eve Ball Drop*, U.S. NEWS (Sept. 24, 2020, 8:44 AM), <https://www.usnews.com/news/national-news/articles/2020-09-24/new-york-citys-time-square-will-host-virtual-new-years-eve-ball-drop>.

<sup>131</sup> *Reopening New York Media Production Guidelines for Employers and Employees*, N.Y. STATE, <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/MediaProductionShortGuidance.pdf> (last accessed Mar. 13, 2021).

that once the country has reached the “recovery stage,” compensation for major revenue losses in the performing arts could come from expanding the upstate tax incentive program.<sup>132</sup> He explained that if the program were expanded statewide, investors would receive money upon venues beginning to generate income again, and the state, already facing a budget crisis, would not have to provide money to venues directly.<sup>133</sup> This is a solution that could be applied to states across America, depending on the quantity and capacity of venues in the state, as well as the average event attendance. The more abundant the number of physical venues and event attendance, the higher the likelihood of such a program attracting investors, and the higher the likelihood of those investors making their money back. In larger states with a prolific arts and culture footprint, this solution might be sustainable. Because the effects of the pandemic are likely to linger for years to come, a tax incentive program such as this could be kept ongoing for years after, if not made permanent.

Another possible option for relief was illustrated in a recent New York Times article, which detailed what eight countries around the world were doing to supply aid to their struggling arts industry.<sup>134</sup> A particularly notable option France is employing, which would likely benefit American arts workers in a profound way, is the establishment of a unique unemployment system for performing artists that recognizes the ebb-and-flow of gig work, and helps stabilize freelancers’ pay during slower months.<sup>135</sup> France’s President even temporarily removed a minimum hourly requirement for those arts workers who receive the aid in order to enable them to continue qualifying to receive it.<sup>136</sup> Additionally, he established government-funded insurance

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<sup>132</sup> Emily Fego, *Cultural and Arts Industry Discuss Major Losses Due to COVID-19*, LEGIS. GAZETTE (Nov. 6, 2020), <https://legislativegazette.com/cultural-and-arts-industry-discuss-major-losses-due-to-covid-19/>.

<sup>133</sup> *Id.*

<sup>134</sup> Alex Marshall, *How 8 Countries Have Tried to Keep Artists Afloat*, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/13/arts/coronavirus-pandemic-arts-support.html>

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

for film and television shoots in case the productions have to shut down again.<sup>137</sup> Intelligently, other countries such as Great Britain have copied the program.<sup>138</sup>

In the United States, a special unemployment insurance for unemployed arts professionals would be a huge step in improving their financial situations. Even though the American government has allowed independent contractors to qualify for unemployment for the very first time during the pandemic under the CARES Act's Pandemic Unemployment Assistance (PUA) program, this has not provided the relief it had initially proposed to offer.<sup>139</sup> In order to qualify, an individual must not be eligible for regular unemployment insurance.<sup>140</sup> Therefore, even if an individual works primarily independent contract jobs, *any* W2 work whatsoever, even a single job that meets the state's quarterly minimum income requirement, qualifies the person for regular unemployment, and disqualifies them from PUA.<sup>141</sup> This leaves some arts professionals grossly underpaid and in the same position as if the PUA did not exist.<sup>142</sup> A special unemployment insurance for arts workers would therefore help ensure these individuals are receiving enough aid to support themselves throughout the remainder of the pandemic, as well as during slow months or breaks in employment in the future. Additionally, a government-funded insurance for films and television shows that would help support them throughout potential future shutdowns would also be a huge relief to the industry. Extending a

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<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, §2102, 134 Stat. 281, 313 (2020).

<sup>140</sup> *Id.*

<sup>141</sup> Bruce Brumberg, *Independent Contractors, and Gig-Economy Workers: Lawyer on Front Lines Answers Advanced Questions*, FORBES (May 6, 2020, 4:05 PM), <https://www.forbes.com/sites/brucebrumberg/2020/05/06/more-on-unemployment-benefits-for-the-self-employed-independent-contractors-and-gig-economy-workers-lawyer-on-front-lines-answers-advanced-questions/?sh=7312ee335d7d>.

<sup>142</sup> Elias Leight, *'It's a Clusterf-ck': Musicians Struggle to Get Pandemic Assistance*, ROLLING STONE (May 5, 2020, 2:47 PM), <https://www.rollingstone.com/music/music-features/musicians-struggle-to-get-pandemic-assistance-993437/>.

similar insurance to live performance venues would also be prudent. Unlike almost all other industries, some performers working in the performing arts must remain unmasked on stage or on camera in order to perform, and they cannot always feasibly social distance away from other people. Typically, hair, makeup, and wardrobe stylists, cast, and directors must touch and remain close to unmasked performers. Additionally, arts productions tend to employ larger numbers of people who work in small spaces with characteristically poor ventilation, such as sound studios or basements. This puts the performing arts at a uniquely high risk of COVID-19 transmission that is uncommon to other professions. Therefore, a special type of insurance for the performing arts would allow performance venues and film studios to use the money they would have invested in their own independent production insurance to instead use that money for other health and safety items, such as improving the air filtration system, deep cleaning, COVID testing, and purchasing adequate personal protective equipment for all employees.

Another New York Times article recently detailed in-depth an excellent and perhaps most-promising way the Biden Administration can help the arts industry. In particular, the author suggests that President Biden create a new program similar to the Works Progress Administration Federal Project Number One that was in place during President Franklin D. Roosevelt's New Deal in 1935.<sup>143</sup> To establish the plan, the article author proposes that the Biden Administration create a Department of Culture within the government, which the United States has not had for several decades.<sup>144</sup> Peter Marks, a Washington Post theatre critic, suggests that the department could perhaps even be headed up with a "Dr. Fauci of culture."<sup>145</sup>

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<sup>143</sup> Jason Farago, *The Arts Are in Crisis. Here's How Biden Can Help.*, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/13/arts/design/arts-stimulus-biden.html> (last updated Jan. 15, 2021).

<sup>144</sup> *Id.*

<sup>145</sup> Peter Marks, *The Culture is Ailing. It's Time for a Dr. Fauci for the Arts.*, WASH. POST (Dec. 2, 2020, 6:00 AM), [https://www.washingtonpost.com/entertainment/biden-fauci-secretary-of-arts-cabinet-post/2020/12/01/a04f3bf8-2da3-11eb-bae0-50bb17126614\\_story.html](https://www.washingtonpost.com/entertainment/biden-fauci-secretary-of-arts-cabinet-post/2020/12/01/a04f3bf8-2da3-11eb-bae0-50bb17126614_story.html).

A project of this sort would give the floundering arts industry the jumpstart it needs. Creating a Department of Culture with a culture-centered mastermind at the helm leading the project would ensure that ample attention is being paid to the specific needs of the arts industry and its workers, as well as to the financial losses and health detriments the nation is currently suffering due to the arts industry shutdown. The department could make sure that federal funding is being distributed to all facets of the arts industry in a fair and equitable manner. Smaller cities across America that typically do not have as much philanthropic, local, or state funding for their arts industries would not fall by the wayside. Additionally, high-risk or low economic populations that could greatly benefit from the addition of accessible arts and culture options could be identified, and targeted funding disbursed to make sure arts options are available to those populations. This could be through the creation of anything from community gardens to pay-what-you-wish community arts studios. Also, federal attention to the arts through a Department of Culture might encourage state or local governments who would not typically look as favorably at the arts industry as benefactors of governmental funds to instead provide subsidies to their own state or local arts and culture organizations. Once individuals begin to realize that arts and culture are an essential part of the overall nation, both economically and socially, there is a greater likelihood of efforts at all levels being made to sustain the arts.

As mentioned in the New York Times article, the creation of a Works Project Administration-like federal cultural works project would also allow for much-needed financial relief for the arts, and much-needed catharsis for America. Like the Roosevelt-era project, the assignments of projects across the country could be divvied up between artists who apply to be a part of the project by showing artistic abilities and financial need, though a specific level of talent would not be required. Because it would be a government-funded program, this could

allow artists to be considered essential government workers, showing that the government believes artists can help sustain the country, and therefore ensuring America views arts and culture as a “linchpin of economic recovery.”<sup>146</sup> The article proposes that the project should be considered an “emergency work scheme” to create an economic stimulus for the nation, rather than simply looking at it through the lens of government support for the arts.<sup>147</sup> Although it is indeed government support for the arts, it is also government support for an ailing America that needs engagement with arts and culture in order to regain its health. A project of this sort would serve to highlight and be inclusive of all parts of the nation by tasking the hired artists with engaging local communities in the production of their art pieces.<sup>148</sup> Additionally, as relayed in the article, it would be beneficial for the government to bring on artists to use their talents for infrastructure projects such as combating climate change, echoing ideas that community grassroots organizations have had for local artists from the start of the pandemic.<sup>149</sup>

If enacted now, a project of this scale backed by continuous federal funding will be able to touch the far reaches of the nation to offer up healing and catharsis, while also providing the economic stimulus our artists need themselves. The project will benefit everyone who encounters it for decades to come, as the art will result in several permanent installations and long-lasting infrastructure improvements across the nation. Additionally, the creation of a Department of Culture within the government will ensure that the industry finally has a set of eyes on it to make sure that, should the nation ever be faced with another similar shutdown, the arts industry will not continue to unravel until there is nothing there, the way it almost has today.

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<sup>146</sup> Jason Farago, *The Arts Are in Crisis. Here's How Biden Can Help.*, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/13/arts/design/arts-stimulus-biden.html> (last updated Jan. 15, 2021).

<sup>147</sup> *Id.*

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

## VII. CONCLUSION

The arts and culture industry, which provides much happiness, healing, and many health benefits to the public at large, is in a state of disrepair that has been unfathomable before now. The government and private funding that it has received has not been close to enough to sustain the large number of individuals who are currently unemployed, or venues folding under the weight of unpaid bills because of the lengthy shutdown. This financial destruction leaves looming the possibility that a large portion of the industry will not be able to reopen. The longer the virus lingers, the longer the arts industry must remain shuttered, and the longer the health of the public suffers without the benefits that prolific engagement with the arts adds to everyone's lives. Without more funding and a dedicated, concerted wellness plan for the rebirth of the arts industry, the nation is posed to suffer a debilitating loss due to the potential mass extinction of large portions of the industry. The government needs to come together now with more relief funding, a potential federal cultural works project to get artists back in the workforce, and special unemployment and insurance programs for arts professionals and organizations, before it is too late. We have already lost enough as a nation, and we cannot afford to lose any more.